PW (1947) Department.

N SERIES.

G.O. NO. 1338

close
15/5/47

Dated 10-5-47

[Despatch Abstract.]

Tools & Plant – Road Roller – Mangalore Municipality – taken over for defence purposes – payment of arrears charges – Not-Completed until

Roc.C5/11695/45

Municipal Office,
Dated 8th February, 1

From

Dr.M.Vallabha Rao, M.B.B.S.,
Commissioner Delegate,
Mangalore Municipality.

To

The Secretary to Government
Public Works Department
Madras.

Sir,

Sub: Tools & Plants - Steam Road Roller belonging to Mangalore Municipal Council - hire charges - requested

Ref: This office Roc.No.11695/45 dated 19-12-1945, and This office letter Roc.C5/11695/45 dated 19-12-1945 and Reminder I dated 10-1-1946.

I request the favour of early orders on the reference noted above.

Commissioner

Comm'd:
R/11-2-46

4. Tools and plant - Steam road roller belonging to Mangalore Municipality lies there.

Ref. From the Commissioner Mangalore Municipality vide No Roe C3 / 1695 /43 dated 8.2.44

The Commissioner, Mangalore Municipality is requested to furnish a copy of his letter No 1095/43 dated 9.2.44 as it does not seem to have been received

27/1/44

for 1944

To the Commissioner
Mangalore Municipality

C.F. 32 (a).

Department ..... Registered .....

From (Name) Sri B.Suryamrayana Rao, M.A.

Designation Commissioner,

Station Mangalore Municipality.

ASST. SECRETARY TO GOVT. 02 MAR 1946 PUBLIC WORKS DEPARTMENT

To 1602

The Secretary to Government,
Public Works Department,
Madras.

Through The Chairman, Municipal Council,
Mangalore.

Enclosures :

Ref. No. C5-11695/45 dated 27th Febry. 1946.

Sir,

Sub: Tools and Plant - Steam road roller - Mangalore Municipality - Hire charges

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p5 infra
p2 ante

I submit herewith a copy of this office letter C5-11695/45 dated 19-12-1945 called for in Government Memo No.318-H/46-1, P.W. dated 20-1-1946 and request the favour of early orders.

28/2

Commissioner

Forwarded:

28-2-46

Chairman, M.C.

Compd:

R/27-2-46

Roc.No.11695/45

Municipal Office, Mangalore,
Dated 19th December, 1 9 4 5

From

Sri B.Suryanarayana Rao, M.A.,
Commissioner,
Mangalore Municipality.

To

The Secretary to Government,
Public Works Department,
M a d r a s.

Through
The Chairman, Municipal Council,
Mangalore.

Through
The Chief Engineer,(Commns.) M a d r a s.

Sir

Sub: Tools and Plant - Road Roller beloning to Mangalore Municip Council - hire charges - requested
Ref: G.O.No.2381 Ms. P.W., dated 18-10-1945

The Sixton steam road roller belonging to this Council was requisitioned by the Chief Engineer(Commns.) for defence purposes in his letter No.127/43-4-D dated 29-1-1943 and ordered to be handed over the Executive Engineer, Public Works Department, West Coast Division, Calicut on condition that hire charges will be paid according to rules in para 340 of the Madras Public Works Department Code subject to the good certificate condition by the Executive Engineer. The roller was actually handed over to the Sub Divisional Officer, Public Works Depart Mangalore, North on 5-4-1943, but on account of transport difficulties, the roller was not removed from the premises of the Municipal Office. roller was returned back on 13-10-1945.

The roller was therefore under requisition for a period from 5-4-1943 to 13-10-1945 i.e. for 921 days. The Government of India in their Memo No.A.C.16(33) dated 14-8-1945 communicated in Government Order No.2381 Ms. P.W. dated 18-10-1945 have fixed a rate of Rs.10/- per day per road roller exclusive of running charges from the date on which the road rollers were made over to Defence Department. The Council is therefore entitled to get a sum of Rs.9210/- as hire charges for the road roller handed over to the Defence Department.

I therefore, request that Government may be pleased to pass orders sanctioning Rs.9210/- as hire charges for the six ton steam road roller lent by this Municipality.

Sd.B.Suryanarayana Rao
Commissioner

F o r w a r d e d:

Sd.H.Hoosein Saheb
Chairman,M.C.

/True copy/

Commissioner
Mangalore Municipality

Compd: 9/2/46
R/27-2-46

Office of the Chief Engineer(Highways),
Chepauk: M a d r a s.

Memorandum No.445/F2/46-1, dated 4-4-1946.

Sub:-Tools and Plant-Road Roller--Mangalore Municipality-payment of Hire charges--claim-
Ref:-Correspondance resting with S.E's(Coimbatore Circle) letter No.2302-W, dated 10-11-1945.

The Commissioner, Mangalore Municipality has claimed hire charges for the roller taken over from the Municipality for defence purposes, for the whole period the roller was under requisition. Apparently the roller was not utilised for defence works as it could not be removed from the Municipal premises on account of transport difficulties. The Municipality can claim hire charges only for such period as it was deprived of the use of the roller for its own works. If it had the use of the roller whenever it required it for its own works, then it cannot claim.

It is however observed that except for the fact that the roller was proposed to be taken over by the P.W.D. the Municipality had the full use of the roller whenever it wanted it. Hence the claim of the hire charges for full period (i.e. from 5-4-43 to 13-10-45) at the rate of Rs.10/- is not reasonable and the Municipality cannot file a claim for the mere reason that it was requisitioned.

The points to be considered are:-

(1) Since the war Department have not used the roller will they be the hire charges if claimed now.
(2) If not who is to bear the hire, evidently the local in P.W.D.
(3) Why was not the roller derequisitioned much earlier, if the roller could not be transported? Is there any correspondence on this with the Railway authorities.
(4) How far is the Municipality morally justified in claiming the hire, when the roller was never actually taken over by the P.W.D. and when the Municipality also has had the full use of the roller whenever wanted.

The Superintending Engineer, Coimbatore is requested to report in detail on the points raised above. He is also requested to report whether or not, there was negligence on the part of the P.W.D. in procuring waggons or unreasonable delay in returning the roller. If so, the Superintending Engineer is requested to obtain and submit the explanation of the persons responsible in this direction.

The Superintending Engineer is requested to treat this reference as urgent.

W.H.TURNER,
Chief Engineer (Highways),

To the Superintending Engineer, P.W.D.
Coimbatore Circle, Coimbatore.

AN/5.4.46.

Ref.C5-11695/45

Municipal Office, Mangalore
Dated 16th April, 1 9 4 6.

From

Sri M.Narayana Shenoy, B.A., B.L.,
Commissioner, Mangalore Municipality,
Mangalore.

To

The Secretary to Government,
Public Works Department, M a d r a s.

Through

The Chairman, Municipal Council, Mangalore.

Sir,

Sub: Tools and Plant - Steam Road roller belonging to Mangalore Municipal Council - Hire charges

Ref: Government Memo No.318-H/46-1,P.W., dated 20-2-1946 and this office C5-11695/45 dated 27-2-1946

I request early orders on the reference noted above.

Commissioner

F o r w a r d e d.

Chairman, M.C. 15.4.46

Compd:
R/16-4-46

From

Sri Rao Bahadur M.K.Ranganatham, B.A., B.E.,
I.S.E., M.I.Mech.E., Assoc. I.E.E.,
Chief Engineer, (Highways),
Chepauk, Triplicane P.O., Madras.5.

To

The Secretary to Government,
PUBLIC WORKS DEPARTMENT.

Letter No. 445-F-46-H.R., Dated 9-4-47.

Sir,

Sub: TOOLS AND PLANT - Road roller - Mangalore municipality - taken over for defence purposes - payment of hire charges.

Ref:- Government Memo No.318-H-46-2., dated 16-3-46.

I forward herewith letter No.Roc.11693/45., dated 19-12-45 received from the Commissioner, Mangalore Municipality.

The roller in question was requisitioned in the year 1943 for defence purposes, but it was not despatched to the military authorities as they did not provide for the transport facilities and it was lying in the municipal premises throughout the requisition period. The then Executive Engineer, West Coast Division, P.W.D. has reported that the roller was not derequisitioned as it was not definitely known when transport would be provided and as the necessity for such derequisitioning was not apparent. He has also reported that the roller was in the hands of the municipality and that the municipal commissi was told by his Assistant Engineer and himself that the municipality could continue to use the roller until its despatch was arranged (vide copy of letter enclosed). The Commissioner has also admitted that the roller was used by the municipality whenever required and that annual inspection charges and repair charges were met by the municip (vide copy of letter enclosed).-

Even though the roller was under requisition it evident from the letter of the Commissioner dated 1-8-45 and foregoing facts that t municipality was at liberty to use the roller whenever required for its own work Commissioner has claimed hire charges only on the technical ground that the ro was under requisition. Obviously therefore the claim of the municipality for hi

320

Roc No.11693/45.

Municipal Office, Mangalore,
Dated the 19th December 1945.

CHIEF ENGINEER
No. 221
28 DEC 1945
MADRAS

From

Sri B.Suryanarayana Rao, M.A.,
Commissioner, Mangalore Municipality, Mangalore.

To

The Secretary to the Government of Madras,
Public Works Department, Madras.

Through - The Chairman, Municipal Council, Mangalore, and
The Chief Engineer (Communications) Madras.

Sir,

Subject:- Tools and Plant - Road Roller belonging to Mangalore Municipal Council - Hire charges - Requested.

Ref:- G.O. No. 2381 Ms P.W. dated the 18th October 1945.

The Sixton Steam Road Roller belonging to this Council was requisitioned by the Chief Engineer (Communications) for Defence purposes in his letter No.127/43-4-D dated the 29th January 1943 and ordered to be handed over to the Executive Engineer, P.W.Department, West Coast Division, Calicut, on condition that hire charges will be paid according to rules in para 340 of the Madras P.W.D. Code subject to the good certificate condition by the Executive Engineer. The Roller was actually handed over to the Sub Divisional Officer, P.W. Department, Mangalore North on 5th April 1943, but on account

of transport

P.W.I. 13

Tools and Plant – Road Roller – Mangalore Municipality – Taken over for defence purposes Payment of hire charges – Not complied with.

From the Commissioner Mangalore Municipality Roc. No. 11693/45 dated 19.12.45.

From the CE (H) No. 445-F.46-H.R dated 9.4.47

G.O. No. 1338 dated 10-5-47

The Commissioner Mangalore Municipality is informed that Govt of India will pay hire charges in respect of road rollers sent to them only from the date on which the road rollers were made over to the Defence Dept / War Dept / Central Public Works Dept – vide Govt of India, Dept of Labour, Memo No. A.C 16(33) dated 14.8.45 Communicated in G.O. No. 2381

P.W dated 18.10.45.

2. The CE (H) has reported that though the road roller belonging to the Municipal Council was under requisition, the roller was actually in the hands of the Municipality and that the Commissioner was told that the Municipality could continue to use the roller until its despatch was arranged. As the Municipality were thus free to use the road roller and as it was actually using the roller, the Govt consider that the claim for hire charges cannot be sustained on the technical ground that the road roller was under requisition. ~~to ensure accounts and that there is no case for payment of hire charges~~

6.5.47

1.5.47

To

The Commissioner, 13.5.47
Mangalore Municipality

Copy to CE (H)

(1 S/c)

810B/46 – Sub: Tools & Plant – road roller – Mangalore Municipality – taken over for defence purposes – payment of hire charges.

1-12 Cf Ref: from the CE(H) No: 445-f-46 H.R dated 9.4.47

Please see the letter from and enclosures from the
1-16 Cf CE(H) at pp 11-16 Cf. The Commissioner, Mangalore Municipality
1-14 Cf has stated in his letter dated 19.12.45 that the six ton steam road roller belonging to the Council was requisitioned by the CE for defence purposes on 29.1.43. It is reported that the roller was handed over to the Sub Divisional officer, P.W.D
1-13 Cf Mangalore on 5.4.43 but that on account of transport
to 14 Cf difficulties it was not removed from the premises of the Municipal office. The Commissioner has stated that the roller was returned back on 13.10.45 for the period during which the roller was under requisition i.e from 5.4.43 to 13.10.45 (921 days), the Commissioner has stated, that the Municipality is entitled to get a sum of Rs 9,210 as hire charges at Rs 10 per day vide reference to the orders in G.O No: 2381 P.W dated 14.8.45. He has therefore requested that this amount may be sanctioned.

The C.E while forwarding the letter of the Commissioner, has stated that the roller was not derequisitioned as it was not definitely known when transport would be provided and the necessity for such derequisitioning was not apparent. The CE reports, that the Commissioner was informed, that the Municipality could continue to use the roller until its despatch was arranged and that the Commissioner has also admitted that the roller was used by the Municipality whenever required and that annual inspection charges and repair charges were met by the Municipality. The CE reports that the Commissioner has claimed hire charges only on the technical ground

that the roller was under requisition. In the circumstances, he is of opinion that the Municipality is not entitled for the hire charges.

With reference to the terms of the Govt of India Memo No. A.C.16(33) dated 14.8.45 for payment of hire charges in respect of road rollers lent to them, the Govt of India will pay hire charges only from the date on which the road roller was made over to the Defence or War Dept or C.P.W.D. The Govt of India have however stated that they are prepared to consider cases of real hardship, if specific cases are reported to them. In view of the fact that the roller was not actually handed over to the defence or war dept or central P.W.D, and that it was used by the Municipal Council, whenever required, it would appear that there is no case for the payment of hire charges for the road roller as required by the Commissioner. There seems also no necessity to address the Govt of India in the matter. L.A. Legal and Fin may see for remarks

SP
18.4.47.

Kun
18.4.47

21/4

L.A

Legal

for

L.A Dept

FW

LOCAL ADMINISTRATION DEPT. 21 APR 54 SECRET.

This dept may agree with the view expressed at A above

21.4.47

21.4.47

Legal.

L.Ap. 373-1
22.4.47
pm

Legal Department —

This Department may also agree with the view expressed at A above. As the municipality was actually using the road roller,—

SECRETARY 1941

its claim for compensation on the technical ground that it was under requisition is unreasonable.

Secy

Coord - Fin (Exps)
30/4/47.

Legal advo. 4.38.5/47-1
30.4.47

Fin. also agree to Legal Advo at A on pp. 2 ante.

4.5.47

P.W.D

Fin no. 26343 Exp-1
1.5.47.

Please see the remarks of Legal Advo on pp 2-3 ante. Draft ~~Memo~~ order informing the Commissioner, Mangalore Municipality ~~to be submitted for approval~~ as at 'A' on p 2 above is subd below for approval.

SP
6.5.47

Kun
6.5.47

Issued as G.O No. Ms. 1338 P.W dated 10.5.47]